

FILED  
IN CLERKS OFFICE  
2011 DEC 27 P 12:01  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE:**

**REEBOK EASYTONE LITIGATION**

**CASE No. 4:10-CV-11977-FDS**

**CLASS ACTION**

Objection to the Proposed Settlement,  
Objection to the Class Notification, and  
Objection to Attorney's Fees.

To The Honorable District Judge:

Comes Nikki Johnson ("Objector"), and file this Objection to the Proposed Settlement, Objection to Class Notification, and Objection to Attorneys' Fees.

**1. Objector is a Class Member**

Objector Nikki Johnson is a resident of Dallas, Texas and received notice by mail of this Settlement at 3141 Hood St, Ste 200, Dallas, TX 75219. A copy of the Claim Form is attached hereto.

I object to the settlement in this case and I am member of the purposed Class.

1       **2.       Proposed Settlement Attempts to Place Unlawful Restrictions on Objectors**

2               I object to paragraph 12 of the Preliminary Approval Order and Paragraph VI (A)  
3 of the Settlement Agreement that require more extensive documentation of a sales  
4 purchase than is required to file a claim or to opt out of the Settlement. I have only been  
5 able to obtain proof of purchase on two products, but I purchased more than two.

6               The Proposed Settlement attempts to place unlawful requirements on objectors—  
7 contrary to Supreme Court authority. In *Devlin v. Scardelletti*, (2002) 536 U.S. 1, the  
8 Court held that objectors who appear at the fairness hearing have the right to appeal  
9 approval of a proposed settlement. The *Devlin* Court did not expand that requirement of  
10 appearing at the hearing to include other requirements such as having a valid proof of  
11 purchase when similar documentation is not required to opt out or file a claim.

12               Nonetheless, and contrary to *Devlin*, the Settling Parties' agreement (and the  
13 Notice they wrote) purports to require objectors to submit proof of purchase  
14 documentation long before the fairness hearing on pain of not being heard.

15               This purported requirement in the Settling Parties' agreement is, it is submitted,  
16 unlawful.

17               Further, the Notice is misleading in claiming that objectors will not be heard if  
18 they do not file and provide additional information.

19               From the Notice and Claim Form I received it is obvious that I am in the Reebok  
20 data base as a purchaser of covered products. Only if someone is not in the Reebok data  
21 base is it proper to ask for additional documentations; such as may be requested by the  
22 claims administrator.

1 It is respectfully submitted that a settlement agreement containing unlawful terms  
2 and founded on a misleading notice to class members may not be properly approved.  
3  
4

5 **3. Objection to the Requirement of the Claim Form**

6 In a world of junk mail important notices such as “you are a member of a class  
7 action” may go unopened and unread. From Paragraph IV of the Settlement Agreement  
8 it is clear the parties will rely in part upon data bases obtained from Reebok. For  
9 individuals such as myself who is a member of the class as reflected in the Defendant  
10 Reebok’s own records, there should be no requirement to file a claim. A check should  
11 simply be sent. Requiring a claim form is simply a barrier to class members being  
12 compensated.  
13  
14

15  
16 **4. Adequacy of Representation**

17 The class representatives failed to fairly and adequately represent the interest of  
18 class members when they agreed that class members needed to file a claim in the  
19 Settlement Agreement. To the extent that Reebok has documentation of purchases by  
20 class members they should simply be sent a check and not have to file a claim form. The  
21 Representatives failed in their duty to class members.  
22  
23

24 **5. Objection to Class Notice**

25 Neither the Court in its Preliminary Approval Order or the Settlement Agreement  
26 notes how many class members purchased eligible Reebok shoes or apparel from  
27 December 5, 2008 through October 12, 2011 or the value of products purchased. The  
28

1 Settlement does provided mechanisms for adjusting the amount a class member may  
2 receive and makes provision for unclaimed funds to go to the Federal Trade Commission.

3  
4 This lack of information alone in the notice makes the notice inadequate. However  
5 the issues with the adequacy of notice continues because no notice is given to the class of  
6 the estimated costs of notice or administration. Because the notice given to the class is  
7 not the adequate and sufficient notice to the class members because of its lack of  
8 information concerning the amount that may ultimately be returned to the class.  
9

10  
11 **6. Objections to the Settlement**

12 The settlement is not fair, reasonable, or adequate, and Objectors object to the  
13 proposed settlement, for the following reasons:

14 The settlement has been reached with questions outstanding concerning  
15 discovery, although the parties claim formal discovery it appears much of the information  
16 was provided by Reebok was though informal means.  
17

18 The class does not know the amount of money at issue or simply the universe  
19 of possible damages to compare against the settlement. Currently without fundamental  
20 financial information and a discussion of possible success on the merits it is not possible  
21 to approve the settlement as being fair, reasonable and adequate to the class.  
22

23 What is the value of the settlement to class members? We do not know as  
24 neither the Settlement Agreement or Preliminary Approval Order even attempts to make  
25 an estimate. It is difficult to evaluate a settlement without an estimated value to the class,  
26 which further makes evaluation of attorneys fees difficult.  
27  
28

1       **7.           Objections to the Fee Petition**

2           Fed. R. Civ. P. 23(h) provides, in relevant part:

3                   (h)     Attorney's Fees and Nontaxable Costs. In a certified  
4                   class action, the court may award reasonable attorney's fees  
5                   and nontaxable costs that are authorized by law or by the  
6                   parties' agreement. The following procedures apply:

7                           (1)     A claim for an award must be made by motion  
8                           under Rule 54(d)(2), subject to the provisions of this  
9                           subdivision (h), at a time the court sets. Notice of the  
10                          motion must be served on all parties and, for motions by  
11                          class counsel, directed to class members in a reasonable  
12                          manner.

13                          (2)     A class member, or a party from whom  
14                          payment is sought, may object to the motion.

15           The amount of the proposed fees in relation to the alleged benefits to the class  
16           renders the settlement unfair and unreasonable. The amount of the proposed attorneys'  
17           fees is an integral element in determining whether the settlement is fair, reasonable, and  
18           adequate.

19           Objector objects to the request for fees to Class Counsel. In this case there should be  
20           a cross check using the lodestar method.

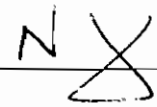
21       **8.           Telephone Participation**

22           I request permission to participate by listening by telephone to the Fairness  
23           Hearing as I live in Texas.

24       **9.           Objector Incorporates any Proper Objections Filed by Other Objectors**  
25           **Herein.**

1       Wherefore, Objector prays that the Court deny the proposed settlement, deny the  
2 requested fees to Class Counsel and grant Objector such other and further relief as to  
3 which Objector may be entitled.  
4

5  
6                               Respectfully submitted,

7  
8                                 
9  
10                              Nikki Johnson. Per se  
11                              3141 Hood St, Ste 200.  
12                              Dallas, TX 75219  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Certificate of Service**

I hereby certify that a copy of the above and foregoing document has been served on December 22, 2011 and by mail to the following:

Clerk of the Court  
United States District Court  
District of Massachusetts  
Donohue Federal Building  
595 Main Street  
Worcester, MA 01608

Timothy G. Blood, Esq.  
Blood Hurts & O'Reardon LLP  
600 b Street, Suite 1550  
San Diego, CA 92101

John P. Hooper, Esq.  
Reed Smith LLP  
599 Lexington Avenue  
New York, NY 10022

